

REMARKS

The Office Action mailed May 22, 2006 has been received and reviewed. Each of claims 1-40 stands rejected. Claims 18 and 32-40 have been amended herein and claims 1-17 have been cancelled. New claims 41-50 have been submitted. Reconsideration of the present application in view of the above amendments and following remarks is respectfully requested.

Claim Objections

Claims 7 and 32 are objected to. Claim 7 has been cancelled. Claim 32 has been amended as hereinabove set forth, in accordance with the Examiner's suggestions. As such, it is believed that the objection to claim 32 has been overcome by making the appropriate corrections suggested by the Examiner.

Rejections Based on 35 U.S.C. § 101

Claims 33-40 have been rejected under 35 U.S.C. 101 on grounds that the claimed invention is directed to non-statutory subject matter. The Examiner notes that claims to computer program products *per se* are not statutory subject matter but that a claim to a computer-readable medium encoded with a computer program product is statutory subject matter. Each of original claims 33-40 recited in its preamble "A computer program product" and recited in its body limitations including computer readable medium and computer readable code devices. In accordance with the Examiner's comments, independent claim 33 has been amended as hereinabove set forth to recite "A system in a computer environment for teaching critical thinking skills to a learner, said system comprising." Accordingly, it is now believed that claim 33 and dependent claims 34-40, as amended herein, are directed to statutory subject matter and are in condition for allowance.

Rejections Based on 35 U.S.C. § 102

A claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently, in a single prior art reference. *Verdeggal v. Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); *see also* MPEP § 2131.

Claims 1-3, 7, and 17 stand rejected under 35 U.S.C. 102(b) as being anticipated by Kerwin (U.S. Patent No. 5,616,033).

As indicated in the specification and figures of the present application, the Applicants’ invention is directed to a system for and method of teaching critical thinking skills that requires a learner to provide an answer or other response (e.g., a numerical rank or other assessment) to a question or other prompt relating to a particular fact pattern, artifact, or other informational content (e.g., a writing sample). More importantly, the system and method of the present invention requires the learner to provide his or her *justification* for the response. *See, e.g.*, Specification at pages 2, 5, 13.

The system and method of the present invention also allows a learner to request and obtain assistance from a “coach” or teacher that provides information in the form of text, audio, and/or video in advance of or in conjunction with the learner’s response and justification for the response. *See* Specification at page 10; *see also* Fig. 3. In one example set forth in the specification, a learner who elects to obtain coaching may obtain a picture of an experienced “coach” or teacher, a brief biography of the coach that established the coach’s credibility, and a

quote from the coach that offers more detail about the criteria in question and the response (e.g., the numerical rank). *See* Specification at page 12.

Independent claim 18 has been amended herein to include the limitation of “a coach module operable to provide said learner with information to assist said learner in formulating said learner’s answers and said learner’s justifications.” New independent claim 41 includes the limitation of “providing said learner with access to assistance from a teacher.” Applicants respectfully submit that U.S. Patent No. 5,616,033 to Kerwin or any other reference cited or considered by the Examiner fail to disclose, either expressly or inherently, providing a “trainee” or other learner with access to assistance from a teacher or coach. Accordingly, Applicants respectfully submit that independent claim 18, as amended hereinabove, and new claim 41 are not anticipated under 35 U.S.C. 102 by Kerwin ‘033 and that claims 18 and 41 and the claims depending therefrom are therefore in condition for allowance.

In addition, the Applicants’ present invention requires that the learner submit his or her justification or explanation for a particular answer or response concurrently with the response; the learner does not submit his or her justification independently and before or after providing an answer or response. *See, e.g.*, Specification at page 10 (“When ready to proceed, the learner will submit his or her answer and justification and the method will move to box 310.”) (emphasis added); *see also* Specification at page 13 (“After the learner enters a rank and a justification and selects submit button 410 on page 350, the invention saves the responses in a database...”); *see also* Fig. 7 (depicting response and justification screen). In this way, the Applicants’ present invention treats a learner’s response and justification not as independently distinct learner interactions, but as a singular product of the learner. Independent claims 18 and 33, as amended hereinabove, and new independent claim 41 provide that the learner submits a

justification for his or her response concurrently with submitting that response. Applicants respectfully submit that independent claims 18, 33, and 41, and the claims depending therefrom, are not anticipated in light of Kerwin '033.

In contrast to the invention of claims 18, 33, and 41, Kerwin '033 teaches that a "trainee" or other learner prepares and submits a "narrative description" independently and before the trainee is presented with and answers multiple choice questions. For example, Kerwin '033 teaches that trainees "are instructed to prepare narrative descriptions of their proposed actions/solutions to situations/simulations before being presented with multiple choice questions..." Kerwin '033 col. 3, ll. 32-35. Similarly, Kerwin '033 teaches that the system requires "a student to first prepare and record a narrative description of his proposed solution to indicated problems before proceeding to a multiple choice test." Kerwin '033 col. 2, ll. 45-48. Fig. 2A of Kerwin '033 depicts the order of steps performed, in which the trainee first prepares and record a narrative solution, after which (independently) the system displays a multiple choice test to the trainee. In sum, Kerwin '033 does not disclose, either expressly or inherently, a learner submitting a justification for a response concurrently with the response.

U.S. Publication No. 2001/0036619 to Kerwin, cited by the Examiner, also fails to disclose, either expressly or inherently, this limitation of independent claims 18, 33, and 41. Kerwin '619 discloses that a trainee prepares and records a narrative solution before the system displays a multiple choice test to the trainee (as in Kerwin '033) or, alternatively, that the trainee prepares and records his or her narrative solution after the system displays a multiple choice test to the trainee. For example, Kerwin '619 discloses that a trainee prepares and records a narrative solution before the system displays a multiple choice test to the trainee. *See Fig. 2A; see also Abstract* ("In one embodiment, provision is made for the trainees to prepare and record their own

narrative solutions to such situations/simulations, following which the system presents sets of multiple choice solutions...”). Alternatively, Kerwin ‘619 discloses that a trainee prepares and records his or her narrative solution after the system displays a multiple choice test to the trainee.

See Fig. 2C; see also Abstract (“In another embodiment, the system requires a student to first complete a preliminary multiple-choice test before proceeding to preparing and recording a narrative description of his proposed solution to the indicated problem.”). In sum, Kerwin ‘619 does not disclose, expressly or inherently, a learner submitting a justification for a response concurrently with the response.

For these reasons, Applicants respectfully submit that Kerwin ‘033, Kerwin ‘619, and the other references considered and cited by the Examiner fail to disclose (either expressly or inherently) each and every limitation of claims 18 and 33, as amended herein, and new claim 41, and that those references therefore do not anticipate those claims or the claims that depend directly or indirectly therefrom. Accordingly, Applicants respectfully submit that claims 18, 33, and 41, and the claims that depend directly or indirectly therefrom, are in condition for allowance.

Rejections Based on 35 U.S.C. § 103

The basic requirements of a *prima facie* case of obviousness are summarized in MPEP § 2143 through § 2143.03. In order to “establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success [in combining the references]. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or

suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on [the] applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." See MPEP § 2143. Further, in establishing a *prima facie* case of obviousness, the initial burden is placed on the Examiner. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or implicitly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 USPQ 972, 972 (Bd. Pat App. & Inter. 1985)." *Id.*; see also MPEP § 706.02(j) and § 2142.

Independent claim 18 and claims 8, 19, 23-27, and 29-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kerwin '033 in view of Kerwin (US 2001/0036619). Applicants respectfully submit that the Kerwin '033 and the Kerwin '619 reference, whether taken alone or in combination, fail to teach or suggest all of the limitations of claim 18, as amended hereinabove, or newly submitted claim 41. As noted above, the inventions of claims 18 and 41 allow a learner to request and obtain assistance from a teacher or "coach" that provides information in the form of text, audio, and/or video in advance of or in conjunction with the learner answering or responding to a particular question or other prompt and providing a justification for that response. See Specification at page 10; see also Fig. 3. In one example set forth in the specification, a learner who elects to obtain coaching may obtain a picture of an experienced teacher or "coach," a brief biography of the coach that established the coach's credibility, and a quote from the coach that offers more detail about the criteria in question and the response (e.g., the numerical rank). See Specification at page 12.

Independent claim 18 has been amended to include the limitation of “a coach module operable to provide said learner with information to assist said learner in formulating said learner’s answers and said learner’s justifications.” New independent claim 41 recites that “providing said learner with access to assistance from a teacher.” Applicants respectfully submit that Kerwin ‘033 and Kerwin ‘619, either alone or in combination, do not teach or suggest providing a “trainee” or other learner with access to assistance from a teacher or coach. Accordingly, Applicants respectfully submit that independent claims 18 and 41 are not obvious under 35 U.S.C. 103 in light of Kerwin ‘033 or Kerwin ‘619, either alone or in combination, and that claims 18 and 41 and the claims depending therefrom are therefore in condition for allowance.

In addition, the Applicants’ present invention requires that the learner provides his or her justification or explanation for a particular answer or response concurrently with the response; the learner does not provide a justification before or after providing an answer or response. *See, e.g.*, Specification at page 5 (“The systems and methods include providing a learner with information, asking the learner to answer questions regarding the information and then asking the learner to justify his or her answer.”).

Claim 18, as amended hereinabove, recites that the learner provides a justification for his or her response concurrently with providing that response. Claim 33, as amended hereinabove, similarly recites that the answer and justification for the answer are submitted concurrently from the learner’s or client’s computer. New claim 41, as submitted hereinabove, recites that the learner’s response and justification for the response are submitted concurrently by the learner.

In contrast to the invention recited in the aforementioned claims, Kerwin '033 teaches that a "trainee" or other learner prepares and submits a "narrative description" independently and before the trainee is presented with and answers multiple choice questions. For example, Kerwin '033 teaches that trainees "are instructed to prepare narrative descriptions of their proposed actions/solutions to situations/simulations before being presented with multiple choice questions..." Kerwin '033 col. 3, ll. 32-35. Similarly, Kerwin '033 teaches that the system requires "a student to first prepare and record a narrative description of his proposed solution to indicated problems before proceeding to a multiple choice test." Kerwin '033 col. 2, ll. 45-48. Fig. 2A of Kerwin '033 depicts the order of steps performed, in which the trainee first prepares and record a narrative solution, after which (independently) the system displays a multiple choice test to the trainee. In sum, Kerwin '033 *teaches away* from concurrent response and justification submission and does not disclose, teach, or suggest a learner submitting a justification for a response concurrently with the response.

U.S. Publication No. 2001/0036619 to Kerwin, also cited by the Examiner, fails to disclose, teach, suggest, or motivate this limitation of independent claims 18, 33, and 41. Kerwin '619 discloses that a trainee prepares and records a narrative solution before the system displays a multiple choice test to the trainee (as in Kerwin '033) or, alternatively, that the trainee prepares and records his or her narrative solution after the system displays a multiple choice test to the trainee. For example, Kerwin '619 discloses that a trainee prepares and records a narrative solution before the system displays a multiple choice test to the trainee. *See* Fig. 2A; *see also* Abstract ("In one embodiment, provision is made for the trainees to prepare and record their own narrative solutions to such situations/simulations, following which the system presents sets of multiple choice solutions..."). Alternatively, Kerwin '619 discloses that a trainee prepares and

records his or her narrative solution after the system displays a multiple choice test to the trainee.

See Fig. 2C; see also Abstract (“In another embodiment, the system requires a student to first complete a preliminary multiple-choice test before proceeding to preparing and recording a narrative description of his proposed solution to the indicated problem.”). In sum, Kerwin ‘619 *teaches away* from concurrent response and justification submission and does not disclose, teach, or suggest a learner submitting a justification for a response concurrently with the response.

For these reasons, Applicants respectfully submit that Kerwin ‘033, Kerwin ‘619, and the other references considered and cited by the Examiner fail to teach or suggest each and every limitation of the pending claims, as amended or submitted herein, and that those references and the other references cited by the examiner do render obvious those claims or the claims that depend directly or indirectly therefrom. Accordingly, Applicants respectfully submit that these claims are in condition for allowance.

Conclusion

For at least the reasons stated above, the pending claims are believed to be in condition for allowance, and an early notice thereof is respectfully requested. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned by telephone prior to issuing a subsequent office action or other response. It is believed that no fee is due in conjunction with the present amendment. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,



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